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SENATE

{ REPORT
{ No. 96-1026

LAKE TAHOE BASIN

NOVEMBER 21 (legislative day, NOVEMBER 20), 1980.—Ordered to be printed

Mr. BUMPERS, from the Committee on Energy and Natural Resources,
submitted the following

REPORT
together with
ADDITIONAL VIEWSCOMPLETED
ORIGINAL

[To accompany H.R. 7306]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 7306) to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes, having considered the same, reports favorably thereon with amendments to the text and recommends that the act as amended do pass.

The amendments are as follows:

1. On page 4, line 2, strike the word "States." and insert the following:

Provided, That, from these revenues, an amount equal to that actually appropriated from the Land and Water Conservation Fund pursuant to Section 3 of this Act, shall be deposited in the Fund prior to fiscal year 1995.

2. On page 4, line 7, strike "Twenty" and insert "Ten".

3. On page 4, strike the last sentence of subsection (3).

4. On page 7, line 7, strike "September 8, 1980" and insert "the date of enactment of this Act".

5. On page 7, line 18, after the word "California" insert ", the Tahoe Regional Planning Agency".

6. On page 7, lines 23 and 24, strike the phrase "on or before December 31, 1980," and insert in lieu thereof "within six months of the date of enactment of this Act,".

7. On page 8, strike lines 7-12 in their entirety and renumber the following sections accordingly.

8. On page 8, line 14, after the word "means" strike the remainder of that line, strike lines 15 through line 18 in their entirety.

9. On page 9, insert the word "and" at the end of line 8, on lines 9-11, strike clause (iv) in its entirety and renumber the following paragraph accordingly.

10. On page 9, line 20, after the word "agency" insert "the Tahoe Regional Planning Agency".

11. On page 9, line 23, insert "The Secretary of Agriculture shall notify the public of the approved land acquisition program on an annual basis."

12. On page 10, line 7, strike "(1)"; strike line 8; and on line 9 strike "Forest System or (2)".

13. On page 10, line 25; page 11, line 11, and line 14, strike the words "air, water, or visual qualities" and insert "water quality".

14. On page 11, line 4, after the word "Agriculture" insert "with the concurrence of the Tahoe Regional Planning Agency".

15. On page 11, line 22, strike "September 8, 1980," and insert "the date of enactment of this Act."

16. On page 14, line 9, strike "1981," and insert "1982," on line 10 strike "1982," and insert "1983," on line 20, strike "1980." and insert "1981."

17. On page 14 after line 16 insert the following:

Funds appropriated pursuant to this section may be expended without regard to any limitations contained in the provisions of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965.

18. On page 15, after line 2, add the following new section:

SEC. 4. (a) (1) Effective upon the conveyance or transfer authorized in subsection 7, the Act of October 21, 1972, entitled "An Act to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Florida" is repealed.

(2) The order of designation of the Mar-A-Lago National Historic Site, dated January 16, 1969, is repealed and the site described therein is hereby designated as the Mar-A-Lago National Historic Landmark.

(b) The Secretary of the Interior shall, within one hundred and twenty days of the date of enactment of this Act, take such measures, consistent with the terms and conditions of the deed of conveyance from Marjorie M. Post to the United States of America, dated December 18, 1972, as may be necessary to transfer the property described in the order of designation of the Mar-A-Lago National Historic Site to the Marjorie Merriweather Post Foundation of the District of Columbia (a charitable foundation organized under the District of Columbia Nonprofit Corporation Act).

(c) The Secretary is authorized upon conveyance, to make appropriate adjustments in the funds available for the ad-

ministration and management of the property, including but not limited to, return of unobligated donated funds to the trustees of the Marjorie Merriweather Post Foundation of the District of Columbia, and reprogram existing appropriations to related functions and activities of the National Park Service.

PURPOSE OF THE MEASURE

The purpose of H.R. 7306 is to provide for the orderly disposal of Federal lands in Clark County, Nevada, and to provide for acquisition of environmentally sensitive lands in the Lake Tahoe Basin, California and Nevada.

BACKGROUND AND NEED

The legislation addresses the twin issues of Federal land ownership in Nevada around urban areas and interspersed with private land, and the environmental degradation of the Lake Tahoe Basin in California and Nevada.

"Public Land Statistics, 1978" of the Department of the Interior indicates that the Federal Government owns 61,617,276.6 acres or 87 percent of the land in Nevada of which the Bureau of Land Management administers 49,117,830.3 acres. Clark County, Nevada is virtually surrounded by areas of Federal land, administered by the Bureau of Land Management, interspersed with private land holdings. Urban growth of Las Vegas, Nevada, is consequently impeded from normal development. Because of their location, BLM "checker-boarded lands" in and around Las Vegas are of high economic value. During 1978 and 1979 the Federal Government received almost \$12 million in revenues from the sale of 564 acres in Clark County.

The Lake Tahoe Basin has long been considered a national treasure and is a unique area within the United States. Various government reports and scientific research over the last 25 years have documented the air, water, soil, and visual degradation of the Lake Tahoe Basin, a 327,250 acre high-Sierra area containing the nationally significant and beautiful alpine waters of Lake Tahoe.

The Lake Tahoe Basin has been studied extensively, beginning with a conference in the matter of pollution of the interstate waters of Lake Tahoe and its tributaries by the Federal Water Pollution Control Administration, and later with a 1971 U.S. Forest Service report on the "Land-Capability Classification of the Lake Tahoe Basin, California-Nevada," the "Lake Tahoe Study" by the Environmental Protection Agency in 1975, the draft Lake Tahoe Basin Water Quality Management Plan prepared by the Tahoe Regional Planning Agency in 1977, a January 1980 "Lake Tahoe Environmental Assessment" by an interagency task force of the Western Federal Regional Council, and, most recently, a California State Water Resources Control Board draft water quality plan for the Lake Tahoe Basin. It is generally concluded that the Lake Tahoe Basin has deteriorated in a measurable, cumulative way since 1970. With the development of 28,000 acres of private lands around the lake between 1970 and 1978 and the corresponding loss of impervious surface coverage and vegeta-

tion, the quantity of nutrients entering Lake Tahoe with runoff waters increased 18-23 percent and sediment loading rates increased 6 percent. Moreover, the concentration of algae biomass increased 150 percent, biological productivity increased 50 percent, and the Lake's clarity reduced 6 to 13 percent.

The Congress recognized the problems of the Lake Tahoe Basin in 1969 when it enacted the "Tahoe Regional Planning Compact" (Public Law 91-148, December 18, 1969). Testimony provided has indicated a general consensus that the hope for this approach to solve the environmental degradation problems in the basin has been unwarranted. This proposal is an attempt to reduce the impact of further development on environmentally sensitive lands (defined as "those lands sensitive to human occupancy and use which are creating or would be expected to create, if developed, unacceptable environmental disturbance to water quality, soil, vegetation, wildlife or cultural resources".)

LEGISLATIVE HISTORY

H.R. 7306 was introduced by Representative Santini and cosponsored by Representative Phillip Burton. A companion measure, S. 2762, was introduced by Senators Cranston and Laxalt on May 22, 1980. H.R. 7306 passed the House of Representatives on September 8, 1980. On October 13, 1980, the Subcommittee on Parks, Recreation and Renewable Resources conducted a field hearing on H.R. 7306 at Incline Village, Nevada. The Energy and Natural Resources Committee held a business meeting on November 19, 1980, and ordered H.R. 7306 favorably reported with amendments.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on November 19, 1980, by unanimous voice vote of a quorum present recommends that the Senate pass H.R. 7306 if amended, as described herein.

COMMITTEE AMENDMENTS

The Committee adopted several amendments to H.R. 7306, which are described below:

1. An amendment to assure that any appropriations from the Land and Water Conservation Fund are offset by revenues from the land sales authorized in section 2.

2. The Committee was seriously concerned about a provision in the House bill which provides that 20 percent of the revenues from land sales shall be returned to Clark County for recreational land and facility acquisition. Under existing law, 5 percent of the revenues from the sale or disposal of Federal lands is returned to the State in which the land is located for general education purposes. The remaining revenues are deposited in the Federal Reclamation Fund under 43 U.S.C. § 391. The arguments presented to the Committee for departing from existing law in this instance were (1) that Las Vegas and Clark County are virtually landlocked by Federally-owned lands and (2) that the urban development supported by services supplied by

Clark County is responsible for enhancing the value of the intermingled Federal lands to be sold under H.R. 7306. Therefore, it is argued that this unique situation justifies the funding provided to Clark County. In general the Committee believes that a change in the existing revenue sharing formula to benefit a particular county is not equitable. However, in an attempt to balance the Committee's concern about the House-passed provision and its recognition of the arguably unique circumstances surrounding it, the Committee adopted an amendment reducing the amount of revenues returned to Clark County to 10 percent. In so doing, the Committee wishes to emphasize that it does not intend to treat this provision, in its original or its amended form, as a precedent in future legislation involving the sale of Federal lands.

3. An amendment recognizing the fact that amendments to the Tahoe Regional Planning Agency have been submitted to the Congress by California and Nevada.

4. An amendment changing the cutoff date for unimproved property to the date of enactment.

5. An amendment including the Tahoe Regional Planning Agency in the consultation process for developing a map of lands to be acquired, and extending the time limit for map preparation for 6 months after enactment. The map may also include environmentally sensitive lands within the National Forest.

6. An amendment narrowing the definition of "environmentally sensitive land" to exclude lands which are "visually important to maintaining the natural character of the Lake Tahoe Basin".

7. An amendment directing the Secretary of Agriculture to notify the public annually of his land acquisition program.

8. An amendment to the provision authorizing condemnation of single family dwellings which requires the concurrence of the Tahoe Region Planning Agency.

9. Amendments limiting the test for the exercise of condemnation authority to "detriment" to the "water quality" of the basin.

10. Several other technical amendments.

11. The Committee also adopted a new section to H.R. 7306 which re-conveys the Mar-a-Lago National Historic Site in the State of Florida to the Merriweather Post Foundation and designates the area as a National Historic Landmark.

SECTION-BY-SECTION ANALYSIS

Section 1 sets forth the findings and purposes of the legislation.

Section 2 establishes a mechanism for the orderly disposal of certain Federal lands managed by the Bureau of Land Management in Clark County, Nevada.

Subsection (a) directs the Secretary of the Interior, acting through the Bureau of Land Management, to dispose of certain Federal lands in urban areas of Clark County by map reference.

Subsection (b) places a limitation on land sales pursuant to this Act. No more than 700 acres per year may be sold under the Act in all the local government jurisdictions combined in Clark County.

Subsection (c) requires that a joint decision by the Secretary of the Interior and the affected local governments be made to determine parcel selection prior to sales.

Subsection (d) is the provision of the bill which stipulates disposition of revenues generated by land sales pursuant to this Act.

The intent of subsections (e) and (f) is clear.

Subsection (g) authorizes payments to local governments with the Lake Tahoe Basin for land acquisition, pollution control or soil erosion mitigation. An additional amount equal to 15 percent of the funds appropriated under section 3 is authorized for this purpose.

Subsection (h) authorizes funding for the Secretary of Agriculture for controlling or mitigating water pollution. An additional amount equal to 5 percent of the funds appropriated under section 3 is authorized for this purpose.

Subsection (i) extends certain provisions of the Payments in Lieu of Taxes Act to lands acquired under this Act.

Section 3(a) authorizes the Secretary of Agriculture to acquire unimproved property and interests in unimproved property in environmentally sensitive areas in California and Nevada which are identified by map reference. It defines "environmentally sensitive land" and provides for consultation procedures for the development of the map and in regards to land acquisitions.

Subsection (b) provides that the U.S. Forest Service shall administer the lands acquired pursuant to the bill. If the Secretary of Agriculture finds that acquired lands are not contiguous to other lands within the National Forest System and that such lands are not suitable for management by the Forest Service, he may transfer such lands or interests therein to an appropriate State or local government agency with appropriate deed restrictions to ensure protection of environmental quality and public recreation.

Subsection (c) authorizes the acquisition of certain improved property and applies only to California lands within the Lake Tahoe Basin.

The authority provided is intended to be used by the Secretary only within the Lake Tahoe Basin within the State of California.

Subsection (d) provides that all reasonable efforts to negotiate must be made before condemnation may occur.

Subsection (e) provides for determination of fair market value by independent appraisal where practicable.

Subsection (f) authorizes periodic payments for acquired lands.

Subsection (g) authorizes funds for the purposes of this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 20, 1980.

HON. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate,
Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 7306, a bill to provide for the orderly disposal of certain federal lands in Nevada and for the acquisition of

certain other lands in the Lake Tahoe Basin, and for other purposes.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

November 20, 1980.

1. Bill number: H.R. 7306.

2. Bill title: A bill to provide for the orderly disposal of certain federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, November 20, 1980.

4. Bill purpose: The bill provides for the sale of federal lands in Clark County, Nevada and for the acquisition of environmentally sensitive lands in the Lake Tahoe Basin, beginning in fiscal year 1982. The bill directs that the additional appropriations of \$10 million in 1982 and \$20 million in 1983 from the Land and Water Conservation Fund for land acquisition, must be repaid to the fund prior to fiscal year 1995.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Spending authorizations:					
Estimated authorization level.....		24.5	35.6	17.2	18.9
Estimated outlays.....		24.5	35.6	17.2	18.9
Estimated Receipts:					
Estimated budget authority.....		-15.6	-17.2	-18.9	-20.8
Estimated outlays.....		-15.6	-17.2	-18.9	-20.8
Net budget impact:					
Estimated authorization level/budget authority.....		8.9	18.4	-1.7	-1.9
Estimated outlays.....		8.9	18.4	-1.7	-1.9

The costs of this bill fall within budget function 300.

6. Basis of estimate: The estimated authorization level is the amount specifically authorized in the bill for fiscal years 1982 and 1983, plus estimated land sale receipts authorized for appropriation. The estimated 1982 authorization includes \$14.5 million from sales already consummated. Sales from the 700 acres of land available in 1982 are estimated to total \$15.6 million. Sales in subsequent years from the 700 acres available annually are increased to reflect rising land values. The estimated authorization level in each year after 1982 includes the amount of estimated sales in the previous year. The estimate assumes that the full amounts authorized will be appropriated for each fiscal year. Based on information from the Department of Agriculture, it is estimated that the full amount appropriated each year would be spent in that same year.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 15, 1980, the Congressional Budget Office prepared an estimate for H.R. 7306, as ordered reported by the House Committee on Interior and Insular Affairs on May 14, 1980. The Senate version of the bill eliminates federal land in Washoe

County, Nevada from the land available for sale and reduces the percentage of annual land sale receipts paid to Clark County, from 20 to 10 percent.

9. Estimate prepared by: Steve Juarez (225-7760).

10. Estimate approved by:

C. G. NUCKOLS

(for James L. Blum, Assistant Director for Budget Analysis).

REGULATORY IMPACT EVALUATION

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

H.R. 7306 provides for the disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of H.R. 7306.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communications received by the Department of Agriculture setting forth Executive agency recommendations relating to H.R. 7306 are set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 19, 1980.

HON. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here are the views of the Department of Agriculture on H.R. 7306 "To provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes."

The Department of Agriculture recommends the enactment of the House Act, H.R. 7306. We do have a few suggestions, discussed below, for strengthening and improving the bill.

H.R. 7306 would direct the sale of up to 700 acres of Federal lands per year in Clark County, Nevada, that are administered by the Bureau of Land Management. Five percent of the annual revenues from such sales would be returned to the State of Nevada for use in its general education program. Twenty percent would be returned to Clark County or the municipality in which the land sale occurred, for acquisition and development of recreational lands and facilities. The return of these funds to the county or municipality beyond October 1, 1982, however, would be contingent on the amendment, by States of Nevada and California, of the Tahoe Regional Planning Compact of 1969, and on submission of the amended Compact to the Congress for ratification. The bill also would authorize the Federal acquisition of "unimproved" private lands, or interests in such lands throughout the Basin which

are environmentally sensitive. A map depicting such environmentally sensitive lands shall be prepared by the Secretary of Agriculture in consultation with the governments of the States of Nevada and California and with local governments and reviewed in public hearing. On the California side of the basin, "improved" private lands, or interest therein, may be acquired if the use of such lands would be detrimental to the existing air, water, or visual qualities of the Basin. Lands so acquired would become a part of the National Forest System except that such lands which are not contiguous to National Forest System lands or suitable for Forest Service administration may be transferred to a State or local government. An amount equal to 15 percent of the funds appropriated under this act for land acquisition, shall be used by the Secretary for annual payments to the local jurisdiction in which lands are acquired, for water pollution control, soil erosion mitigation, or land acquisition. An amount equal to 5 percent of the appropriated funds shall be used by the Secretary for preventing, controlling, or mitigating water pollution associated with National Forest System lands in the Basin.

On May 30, 1980 in a public statement, President Carter said that he strongly supports and urges prompt enactment, without weakening amendments, H.R. 7306. He affirmed his belief that Lake Tahoe is a national treasure and that the Lake Tahoe Basin is an area of national concern in which the protection of environmental qualities is of critical importance. The President urged the States of California and Nevada to make the Tahoe Regional Planning Compact operate more effectively. And, to ensure that Federal activities in the Basin will not contribute further to environmental deterioration, the President also announced his intention to establish, by Executive Order, a Lake Tahoe Federal Coordinating Council to (1) review and recommend against Federal actions and decisions that would have a significant adverse impact on the Basin's environment, and (2) develop and issue environmental quality thresholds and carrying capacities for the air, water, and terrestrial components of the Basin.

Two of the three principal events referred to by the President on May 30 have already occurred. The States of Nevada and California have amended the Tahoe Regional Planning Compact and have submitted it to the Congress for ratification. Secondly, the Executive Order promised by President Carter was issued October 15, the Tahoe Federal Coordinating Council has been established, and the development of environmental thresholds and carrying capacities is now underway.

We recommend that the third event—the enactment of H.R. 7306—be achieved promptly by the Congress. Without diminishing in any way the President's strong support for H.R. 7306 we do, however, have a few suggestions for technically strengthening the language of the bill. We suggest the deletion in section 3(b) of the words "(1) which are not contiguous to other lands within the National Forest System or (2)". This is an unnecessary criterion for determining which lands may be transferred to State or local governments. Usually the location of acquired lands in relation to nearby National Forest System lands is one of several factors normally used to determine whether such acquired lands are suitable for inclusion in the System. We also

suggest that in section 3(a)(2)(B) the words "on or before December 31, 1980" be replaced with the words "within six months after enactment of this Act". This will ensure adequate time for mapping the lands to be acquired.

The Administration also believes that subsections (g), (h), and (i) of Section 2 of H.R. 7306, as passed by the House, are unnecessary and undesirable.

Subsection (g) directs annual payments to jurisdictions within the Lake Tahoe Basin in proportion to land acreages purchased under this Act. Amounts may be appropriated up to 15% of the authorizations of Section 3. These funds are to be expended by the local governments for water pollution control, soil erosion mitigation, or land acquisition. It is the Administration's view that such earmarked and arbitrary payments are unlikely to bear any reasonable relationship to the need for expenditures for these purposes. Assistance for these purposes should be provided through existing Federal programs rather than by creating new ones.

Subsection (h) authorizes the appropriation annually to the Secretary of Agriculture of amounts equal to 5% of the amounts appropriated under Section 3, to be used for mitigating pollution associated with National Forest lands and to manage acquired lands within the Lake Tahoe Basin. The Administration's view is that funding for these purposes should be provided as appropriate under existing authorizations and appropriations for the National Forest System and not by a separate authorization and an appropriation dependent on the appropriations under Section 3.

Subsection (i) provides for payments to jurisdictions within which land is acquired under this Act at an annual rate of 1% of the land's value for 5 years or at the level at which property taxes on the land were assessed and levied prior to Federal acquisition if such levels are less than the 1% level. If such tax level determines the payments, they will continue until 5% of the land's value is paid. The Administration believes that it is not in the public interest to make such payments in addition to the payments in lieu of taxes and National Forest receipts payments which will be made pursuant to existing law. Furthermore, the basic purpose of the Federal land acquisition is to help preserve the quality of the lake's environment which makes it an attractive resort and outdoor recreation area. In doing so, the economic viability and health of the area's economy and tax base are enhanced, not adversely affected. If the Congress should find that a special subsidy is nevertheless desirable, we believe that a transition payment limited to the prior tax level for 5 fiscal years after acquisition should not be exceeded.

The Administration also recommends that the bill contain explicit language making it clear that all appropriations for land acquisition under this Act are to be made from the Land and Water Conservation Fund and that all payments under this Act are subject to the appropriations process.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JIM WILLIAMS,
Acting Secretary.

ADDITIONAL VIEWS OF SENATOR BUMPERS

During the Committee consideration of H.R. 7306 I offered an amendment to delete a provision which earmarks 20 percent of the revenues derived from the mandated sale of Federal lands in Clark County, Nevada to be given to the county for acquisition of recreational land and facilities. With estimated revenues of \$100 to \$150 million from public land sales over the next 10 years, Clark County would have received a substantial amount of money under the House bill. I believe that the allocation of \$20 to \$30 million from the sale of Federal assets owned by all Americans, for local recreational purposes, is unfair. It is unfair to other public land States and their political subdivisions in which public lands are sold, and unfair to the general public. I am not aware of any justification for the special treatment afforded Clark County in this legislation. While I would prefer deletion of the 20 percent share entirely, I am pleased that the Committee agreed to a compromise figure of 10 percent. Moreover, I agree completely with my colleagues on the Committee that this revenue-sharing provision will not be a precedent for future legislation in the Senate.

DALE BUMPERS.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act, H.R. 7306, as reported.

(12)

